

REMARKS/ARGUMENTS

The claims have been divided into Groups as follows:

Group I: Claims 1-14, 16-24, 34 and 35, drawn to a method comprising increasing by recombinant means expression in a plant or plant part of cdc27a nucleic acid sequence, a plant, plant part and a genetic construct;

Group II: Claims 1-14, 16-24, 34 and 35, drawn to a method comprising decreasing by recombinant means expression in a plant or plant part of a cdc27a nucleic acid sequence, a plant, plant part, and a genetic construct;

Group III: Claims 1-14, 16-24, 34 and 35, drawn to a method comprising increasing by recombinant means levels in a plant or plant part of a CDC27A protein, a plant, plant part, and a genetic construct;

Group IV: Claims 1-14, 16-24, 34 and 35, drawn to a method comprising decreasing by recombinant means levels in a plant or plant part of a CDC27A protein, a plant, plant part, and a genetic construct;

Group V: Claims 1-14, 16-24, 34 and 35, drawn to a method comprising increasing by recombinant means activity in a plant or plant part of a CDC27A protein, a plant, plant part, and a genetic construct;

Group VI: Claims 1-14, 16-24, 34 and 35, drawn to a method comprising decreasing by recombinant means activity in a plant or plant part of a CDC27A protein, a plant, plant part, and a genetic construct;

Group VII: Claims 1-2, 17-20, 34 and 35, drawn to a method comprising increasing by chemical means expression in a plant or plant part of a cdc27a nucleic acid sequence;

Group VIII: Claims 1-2, 17-20, 34 and 35, drawn to a method comprising decreasing by chemical means expression in a plant or plant part of a cdc27a nucleic acid sequence;

Group IX: Claims 1-2, 17-20, 34 and 35, drawn to a method comprising increasing by chemical means levels in a plant or plant part of a CDC27A protein;

Group X: Claims 1-2, 17-20, 34 and 35, drawn to a method comprising decreasing by chemical means levels in a plant or plant part of a CDC27A protein;

Group XI: Claims 1-2, 17-20, 34 and 35, drawn to a method comprising increasing by chemical means activity in a plant or plant part of a CDC27A protein;

Group XII: Claims 1-2, 17-20, 34 and 35, drawn to a method comprising decreasing by chemical means activity in a plant or plant part of a CDC27A protein;

Group XIII: Claim 15, drawn to a method comprising growing a plant with increased expression of a cdc27a nucleic acid sequence;

Group XIV: Claim 15, drawn to a method comprising growing a plant with decreased expression of a cdc27a nucleic acid sequence;

Group XV: Claim 15, drawn to a method comprising growing a plant with increased levels of a CDC27A protein;

Group XVI: Claim 15, drawn to a method comprising growing a plant with decreased levels of a CDC27A protein;

Group XVII: Claim 15, drawn to a method comprising growing a plant with increased activity of a CDC27A protein;

Group XVIII: Claim 15, drawn to a method comprising growing a plant with decreased activity of a CDC27A protein;

Group XIX: Claims 30, 36 and 37, drawn to a food product derived from a plant with increased expression of a cdc27a nucleic acid sequence;

Group XX: Claims 30, 36 and 37, drawn to a food product derived from a plant with decreased expression of a cdc27a nucleic acid sequence;

Group XXI: Claims 30, 36 and 37, drawn to a food product derived from a plant with increased levels of a CDC27A protein;

Group XXII: Claims 30, 36 and 37, drawn to a food product derived from a plant with decreased levels of a CDC27A protein;

Group XXIII: Claims 30, 36 and 37, drawn to a food product derived from a plant with increased activity of a CDC27A protein;

Group XIX: Claims 30, 36 and 37, drawn to a food product derived from a plant with decreased activity of a CDC27A protein;

Group XXV: Claim 31, drawn to an animal feed or food derived from a plant with increased expression of a cdc27a nucleic acid sequence;

Group XXVI: Claim 31, drawn to an animal feed or food derived from a plant with decreased expression of a cdc27a nucleic acid sequence;

Group XXVII: Claim 31, drawn to an animal feed or food derived from a plant with increased levels of a CDC27A protein;

Group XXVIII: Claim 31, drawn to an animal feed or food derived from a plant

with decreased levels of a CDC27A protein;

Group XXIX: Claim 31, drawn to an animal feed or food derived from a plant with increased activity of a CDC27A protein;

Group XXX: Claim 31, drawn to an animal feed or food derived from a plant with decreased activity of a CDC27A protein;

Group XXXI: Claims 32 and 33, drawn to a method comprising producing one or more enzymes or pharmaceuticals with a plant with increased expression of a cdc27a nucleic acid sequence, and to one or more enzymes or pharmaceuticals produced by said method;

Group XXXII: Claims 32 and 33, drawn to a method comprising producing one or more enzymes or pharmaceuticals with a plant with decreased expression of a cdc27a nucleic acid sequence, and to one or more enzymes or pharmaceuticals produced by said method;

Group XXXIII: Claims 32 and 33, drawn to a method comprising producing one or more enzymes or pharmaceuticals with a plant with increased levels of a CDC27A protein, and to one or more enzymes or pharmaceuticals produced by said method;

Group XXXIV: Claims 32 and 33, drawn to a method comprising producing one or more enzymes or pharmaceuticals with a plant with decreased levels of a CDC27A protein, and to one or more enzymes or pharmaceuticals produced by said method;

Group XXXV: Claims 32 and 33, drawn to a method comprising producing one or more enzymes or pharmaceuticals with a plant with increased activity of a CDC27A protein, and to one or more enzymes or pharmaceuticals produced by said method; and

Group XXXVI: Claims 32 and 33, drawn to a method comprising producing one or more enzymes or pharmaceuticals with a plant with decreased activity of a CDC27A protein, and to one or more enzymes or pharmaceuticals produced by said method.

Applicants elect, with traverse, Group I, Claims 1-14, 16-24, 34 and 35 (drawn to a method comprising increasing, by recombinant means, expression in a plant or plant part of a cdc27a nucleic acid sequence, a plant, plant part, and a genetic construct), for examination.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (MPEP §803). The burden is on the Examiner to provide reasons and/or examples

to support any conclusion in regard to patentable distinction (MPEP §803). Moreover, when citing lack of unity of invention in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other group specifically describing special technical features in each group (MPEP § 1893.03(d)). This has not been done.

The Examiner has indicated that Groups I - XXXVI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2,

“the technical feature … is increasing or decreasing expression in a plant or plant part of a cdc27a nucleic acid sequence and/or increasing or decreasing levels and/or activity in a plant of a CDC27A protein … [and] is obvious or anticipated over WO 01/02430, and therefore … does not define a contribution over the prior art”.

Applicants respectfully note that Annex B of the Administrative Instructions under the PCT at (b) Technical Relationship states:

“The expression “special technical features” is defined in Rule 13.2 as meaning those technical features that defines a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any).”

Applicants respectfully submit that the Examiner has not provided any indication that the contents of the claims interpreted in light of the description was considered in making the assertion of a lack of unity and therefore has not met the burden necessary to support the assertion.

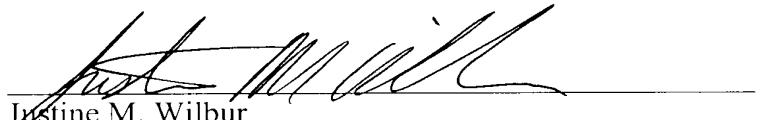
Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction.

Applicants therefore request that the requirement for restriction be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully Submitted,

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